

## DEPARTMENT OF INDUSTRIAL RELATIONS

## DIVISION OF LABOR STANDARDS ENFORCEMENT

## LEGAL SECTION

455 Golden Gate Avenue, Room 3166

San Francisco, CA 94102

(415) 703-4150

H. THOMAS CADELL, JR., *Chief Counsel*

May 4, 1993

Vince Brown  
Human Resources Director  
Diamond Walnut Growers, Inc.  
P.O. Box 1727  
Stockton, CA 95201

Re: Labor Code § 973

Dear Mr. Brown:

It has come to the attention of the Division of Labor Standards Enforcement that some advertisements placed by your firm soliciting help may be in violation of Labor Code § 973. It is our understanding that your firm is currently engaged in a strike with the Cannery Workers Union. On February 13, 1993, your firm ran an advertisement seeking help in the categories of, *inter alia*, maintenance mechanics. These workers, it is our understanding, would be within the category of workers covered by the terms of the expired CBA.

Labor Code § 973 requires that any advertisement soliciting help to work while a strike, lockout, or other trade dispute is still in active progress shall "plainly and explicitly mention... that a strike, lockout or other labor disturbance exists." The advertisement in the *Stockton Record* of Saturday, February 13, 1993, failed to state that there was a labor dispute in progress.

We assume that the failure to state that there exists a labor dispute was the result of inadvertence or mistake. However, we must point out that violation of Labor Code § 973 is a misdemeanor. We are reluctant to take any action, but unless future advertisements contain an explicit notice of the existence of a labor dispute, we will be forced to bring the matter to the attention of the District Attorney.

Thanking you in advance for your anticipated cooperation in this matter, I remain,

Yours truly,

*H. Thomas Cadell, Jr.*  
H. THOMAS CADELL, JR.  
Chief Counsel

c.c. Victoria Bradshaw, State Labor Commissioner

1993.05.04-2